



Photo Source: Khmer Times

STATEMENT ON THE VERDICT IN THE TRIAL OF KONG RAIYA IN CAMBODIA

CHARGES

Incitement to Commit a Felony

OUTCOME

Convicted and Given Two
Year Suspended Sentence
(with Credit for Time Served)

TRIALWATCH MONITOR

American Bar Association
Center for Human Rights

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The Clooney Foundation for Justice’s TrialWatch initiative monitored the trial in Cambodia of Kong Raiya, an activist with the banned Cambodia National Rescue Party. He was charged with incitement to commit a felony for a Facebook post about the commemoration of the death of [Kem Ley, a slain opposition figure](#). After serving nearly five months in arbitrary pre-trial detention, he was convicted today and given a two-year suspended sentence following a one-day hearing. His prosecution and conviction violated his right to freedom of expression. A full report assessing the trial under international human rights law will be released soon.

[Five UN Special Rapporteurs](#) commented at the time of Kong Raiya’s arrest that he had been “engaged in the legitimate exercise of [his] freedom of speech”. Indeed, his trial is part of a broader crackdown on freedom of expression documented by TrialWatch in a [Fairness Report on the trial of former Radio Free Asia journalists in Cambodia](#).

The charges against Kong Raiya were based on a social media post that advertised T-shirts bearing Kem Ley’s image and provided information on a ceremony marking his death. This is protected speech under Article 19 of the International Covenant on Civil and Political Rights, a treaty that also protects the right of peaceful assembly. Under these circumstances Kong Raiya should never have been arrested, much less detained, tried, and convicted and **CFJ calls on Cambodia to reverse this unjust result.**

BACKGROUND

The charges in this case stem from a social media post regarding the commemoration of the death of Kem Ley, an activist and political commentator critical of the Cambodian government whose death [local and international organizations](#) have stated was not adequately investigated by Cambodia. The T-shirts Kong Raiya advertised in the post included two quotes from Kem Ley: on the front, “Wipe your tear and continue your journey”; and on the back, “Although you do nothing, you would still be victimized. It’s just a matter of time when it’s your turn”. On this basis, Kong Raiya was prosecuted for incitement to commit a felony under Articles 494 and 495 of the Criminal Code of Cambodia.

Raiya told investigating officers that he had not intended to “incite anyone” and the authorities did not specify at trial the felony his post allegedly incited. The prosecution simply relied on a theory that a crime had been committed on the basis that “[w]hen people wear this T-shirt and commute, the quotes can be seen”.

Kong Raiya was also detained for nearly five months before his trial began without an adequate assessment of the reasonableness and necessity of pre-trial detention, as required by international standards. Further, Kong Raiya’s wife and nine-month old baby [were also initially arrested and detained](#), before being released.

Kong Raiya had previously been [sentenced to 18 months’ imprisonment on similar charges](#). He was also convicted today of violating Article 88 of the Criminal Code of Cambodia, which prescribes a higher sentence for someone when their conviction for a misdemeanor is the second for the same crime.

ABOUT THE CLOONEY FOUNDATION FOR JUSTICE’S TRIALWATCH INITIATIVE



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The Clooney Foundation for Justice's [TrialWatch](#) initiative monitors and grades the fairness of trials of vulnerable people around the world, including journalists, women and girls, religious minorities, LGBTQ persons and human rights defenders. Using this data, TrialWatch advocates for victims and is developing a Global Justice Ranking measuring national courts' compliance with international human rights standards.