

UM SAM AN

Summary

Cambodia National Rescue Party (CNRP) MP Um Sam An was arrested shortly after returning to Cambodia in April 2016, and charged with incitement to commit a felony and incitement to discriminate under the Criminal Code. The charges were over a public speech made by Um Sam An, which featured a doctored version of Article 4 of the 1979 Cambodian-Vietnamese border treaty and alleged that the countries had agreed to dissolve the border. The speech was then posted to CNRP President Sam Rainsy's Facebook page. Um Sam An was convicted and sentenced to seven years in prison on 10 October 2016.

Charges

Criminal Code, Article 494: Conditions for Existence of Incitement

For the purpose of enforcement of the present Chapter, the incitement is punishable when it is committed:

1. by speech of any kind, made in a public place or meeting;
2. by writing or picture of any kind, either displayed or distributed to the public;
3. by any audio-visual communication to the public.

Criminal Code, Article 495: Incitement to commit a felony

The direct incitement to commit a felony or to disturb social security by employing one of the means specified in Article 494 (existence of incitement) of this Code shall be punishable by imprisonment from six months to two years and a fine from one million to four million riels, where the incitement was ineffective.

Criminal Code, Article 496: Incitement to discriminate

The direct incitement, by one of the means defined in Article 494 (existence of incitement) of this Code, to discriminate, to be malicious or violent against a person or a group of persons because of their membership or non-membership of a particular ethnicity, nationality, race or religion, shall be punishable by imprisonment from one to three years and a fine from two million to six million riels, where the incitement was ineffective.

2015

28 June – Um Sam An and CNRP MP Real Camerin lead some 200 people to inspect the Cambodia-Vietnam border in Svay Rieng province, resulting in a clash with Vietnamese officials who allegedly refused the group permission to inspect a road being constructed in Vietnam. ¹

1 July – The Vietnamese government blames Cambodian “extremists” for the violent clashes that occurred on 28 June. ²

6 July – Um Sam An asks for a letter he wrote to be forwarded to Prime Minister Hun Sen, which asks the Prime Minister to halt the demarcation process of the border with Vietnam. National Assembly President Heng Samrin refuses to forward the letter, which prompts Um Sam An to threaten to lodge a complaint with the Constitutional Council against the National Assembly President. ³

14 July – Um Sam An posts remarks to social media in which he accuses National Assembly President Heng Samrin of abusing the Constitution by refusing to forward the letter to Prime Minister Hun Sen. ⁴

19 July – Um Sam An and CNRP MPs Real Camerin, Nuth Rumduol, and Cheam Channy lead more than 1,000 CNRP supporters to a remote stretch of the Vietnamese border in Svay Rieng province to examine the placement of a border marker. ⁵

20 July – CPP MP Chheang Vun says Um Sam An's parliamentary immunity could be suspended for criticizing National Assembly President Heng Samrin (without specifying which law he had broken); Chheang Vun says that legal experts working for the National Assembly had finished a four-day investigation into his remarks. ⁶

24 July – Um Sam An is banned from the National Assembly for 15 sessions and has his salary halved for two months for “insulting” National Assembly President Heng Samrin in social media posts made on 14 July. ⁷

27 August – Um Sam An claims in an interview that he has found a map in the US Library of Congress that could shine new light on the issue of the border demarcation between Cambodia and Vietnam. ⁸

28 August – Senior Minister for Border Affairs Var Kimhong says that the government has had copies of the maps Um Sam An claims to have found at the US Library of Congress since 2003 and that these maps were the same as the ones the government was using to demarcate the border. ⁹

September – Um Sam An is allegedly named in a court complaint relating to violent scuffles that broke out between CNRP supporters and Vietnamese soldiers and civilians during a border visit. However, the person named as a plaintiff in the complaint later says that she never filed the suit and did not want to pursue it; she also says she was questioned by a Svay Rieng prosecutor regarding whether Um Sam An and CNRP MP Real Camerin had led the visit. ¹⁰

8 October – Um Sam An declares he has discovered the “official maps,” which should be used to demarcate the Cambodia-Vietnam border, at the UN's New York Library; the Cambodian government dismisses the claim. ¹¹

24 December – *The Cambodia Daily* releases a report, which includes findings that the chairman of four economic land concessions (ELCs) near the O'Yadav border checkpoint in Ratanakkiri province, covering almost 40,000 hectares, is linked to the Vietnamese Army's Corps 15. ¹²

2016

2 February – Um Sam An criticizes National Assembly President Heng Samrin for refusing to forward a letter to Prime Minister Hun Sen requesting an investigation into land concessions in Ratanakkiri province that he says are controlled by the Vietnamese military. Um Sam An alleges, based in part on the December 2015 report by *The Cambodia Daily*, that the Vietnamese military holds about 40,000 hectares of ELCs and plans to establish a military base there. ¹³

8 February – Um Sam An pledges to return to Cambodia in April. ¹⁴

4 March – Um Sam An writes a letter to Prime Minister Hun Sen (forwarded by National Assembly President Heng Samrin and received on 9 March) demanding answers as to how 40,000 hectares in Ratanakkiri province allegedly came under the control of the Vietnamese army. ¹⁵

11 April – Um Sam An is arrested in the early morning in Siem Reap shortly after arriving back in Cambodia (on 10 April) from the United States. He is sent to court in the afternoon, following hours of questioning by the anti-terrorism police at the Ministry of Interior. ¹⁶

12 April – Um Sam An is formally charged with “incitement to cause chaos in society” over a series of Facebook posts made in 2015 discussing border issues and in particular, claiming that the government was using incorrect maps to demarcate the border with Vietnam. In a session boycotted by the CNRP, the National Assembly votes to allow the case against Um Sam An to proceed without formally lifting his immunity, using as justification the claim that Um Sam An's crime was committed “*in flagrante delicto*.” ¹⁷

20 April – Sok Kim Seng, a CNRP councilor from Siem Reap, files a complaint with Provincial Governor Khim Bun Song regarding the actions of Sorth Nady and Por Vannith, the police and military police chiefs for Siem Reap, who he alleges ordered their forces to illegally enter his house on 11 April to arrest Um Sam An. ¹⁸

25 April – 40 opposition lawmakers write a letter to King Norodom Sihamoni asking him to intervene to release Um Sam An. ¹⁹

25 May – Um Sam An is questioned by Phnom Penh Municipal Court Investigating Judge Top Chhun Heng for one hour and declines to answer questions, saying he would only answer questions if the National Assembly voted to remove his parliamentary immunity. ²⁰

12 July – An appeal filed regarding the illegality of Um Sam An's arrest and detention given his parliamentary immunity is denied by the court. ²¹

10 August – The Supreme Court hears a bail application from Um Sam An, whose lawyers say he will surrender his passport. ²²

17 August – Um Sam An's bail request is denied by the Supreme Court, which says that Um Sam An is a flight risk. ²³

5 September – Um Sam An's trial begins at the Phnom Penh Municipal Court; he and his lawyers walk out only a few minutes into the hearing, decrying the proceedings as “illegal.” ²⁴

10 October – Um Sam An is sentenced to two and a half years in prison by the Phnom Penh Municipal Court after a trial boycotted by him and his lawyers, and fined 4 million riels (1,000 USD); he is convicted on charges of incitement to commit a felony and incitement to discriminate. ²⁵

23 December – The Court of Appeal upholds the guilty verdict and sentence for Um Sam An. ²⁶

2017

23 February – Um Sam An resigns from the CNRP after the National Assembly passes controversial amendments to the Law on Political Parties. ²⁷

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³ Phnom Penh Post, “CNRP lawmaker hit in pocket for Samrin comments,” 25 July 2015, <http://www.phnompenhpost.com/post-weekend/cnrp-lawmaker-hit-pocket-samrin-comments>.
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⁸ Phnom Penh Post, “CNRP's Um Sam An sustains rhetoric on map,” 28 August 2015, <http://www.phnompenhpost.com/national/cnrps-um-sam-sustains-rhetoric-map>.
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¹⁴ Phnom Penh Post, “Vietnam border campaigner Sam An vows to return in April,” 9 February 2016, <http://www.phnompenhpost.com/national/vietnam-border-campaigner-sam-vows-return-april>.
¹⁵ Phnom Penh Post, “Letter on Vietnam border ELCs reaches PM,” 11 March 2016, <http://www.phnompenhpost.com/national/letter-vietnam-border-elcs-reaches-pm>.
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¹⁷ Cambodia Daily, “Immunity No Use of Jailed Lawmaker, Hun Sen Says,” 13 April 2016, <https://www.cambodiadaily.com/news/immunity-no-use-for-jailed-lawmaker-hun-sen-says-111264/>.
¹⁸ Phnom Penh Post, “Councilor files action against cops over Um Sam An raid,” 22 April 2016, <http://www.phnompenhpost.com/national/councilor-files-action-against-cops-over-um-sam-raid>.
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