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For immediate release**

Sam Rainsy Conviction Reflects Cambodia's Rotten Democracy

The Cambodian Center for Human Rights ("CCHR") condemns the political ruling by Svay Rieng Provincial Court on 27 January 2010 that found Cambodian Opposition leader Sam Rainsy guilty of racial incitement and destruction of property, and villagers Meas Srey and Prom Chea guilty of destruction of property. The charges arose from an October 2009 incident in which Mr. Rainsy joined villagers from Svay Rieng's Chantrea district in symbolically uprooting temporary Cambodia-Vietnam border markers, which villagers claimed had been placed illegally in their rice fields by Vietnamese authorities. Mr. Rainsy's conviction reflects the state of Cambodia's democracy, as three of its cornerstones - parliamentary immunity, freedom of expression and judicial independence - continue to be uprooted by the Royal Government of Cambodia (the "RGC").

Parliamentary Immunity

Mr. Rainsy's conviction follows the stripping of his parliamentary immunity in November 2009 in a closed session of the ruling Cambodian People's Party dominated National Assembly. It continues an alarming trend that saw opposition lawmakers stripped of their immunity on four occasions in 2009. Parliamentary immunity is guaranteed in Article 80 of the Constitution of the Kingdom of Cambodia (the "Constitution") and is intended partly to ensure that the legislature can oversee the executive, with parliamentarians free to express opinions without fear of reprisal. Parliamentarians must be able to question the RGC's policy and activities without being stripped of their immunity and faced with criminal charges. The CCHR condemns the frequent disregard of parliamentary immunity and urges the RGC to work with legal experts, representatives of all political parties, and civil society to develop a clearer, de-politicised legal framework governing parliamentary immunity.

Freedom of Expression

The issue of Cambodia's border with Vietnam evokes much passion amongst the Cambodian people, and is clearly a sensitive topic for the RGC. Rainsy's conviction is reminiscent of the 2005-2006 crackdown that resulted in the arrest and imprisonment of civil society leaders - including former CCHR president Kem Sokha - for displaying a banner on which a member of the public had scrawled an anti-Vietnam message. Article 41 of the Constitution guarantees freedom of expression to all citizens. Freedom of expression is important for individual dignity and for all Cambodians to participate in decision-making, accountability and democracy as we work to rebuild the country. Opposition figures, civil society, and the Cambodian public must be free to discuss issues of national importance such as the finalisation of contentious national borders. In this regard, the CCHR urges the RGC to: decriminalize defamation - as promised by Prime Minister Hun Sen - and disinformation; publicly endorse the Johannesburg Principles, and work with NGOs to formulate a freedom of expression and assembly strategy as part of a wider human rights action plan; refrain from instigating law suits against opposition parliamentarians over differences of opinion - the RGC

The Cambodian Center for Human Rights is a non-political, independent, non-governmental organization which works to promote democracy and respect for human rights throughout Cambodia.

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includes talented individuals who are quite capable of engaging in free debate (including a transparent discussion of the Cambodia-Vietnam border) rather than resorting to state power to settle disputes.

Judicial Independence

The CCHR is alarmed by the RGC's continued use of the Cambodian courts to intimidate and harass Opposition politicians, NGO leaders, journalists and lawyers to silence legitimate debate. The RGC's influence over the Cambodian courts is clearly as strong as ever. The Svay Rieng Provincial Court provided no clear legal basis for Wednesday's decision – vis-à-vis the true ownership of the land on which the border-markers were damaged for example – and the severity of the sentence is out of all proportion to the nature of the incident. The trial was closed to the public and Mr. Rainsy was tried in absentia. The independence of the judiciary is guaranteed by Article 128 of the Constitution - Cambodian courts exist to protect the rights of citizens, not to serve as a tool of state-sponsored intimidation. The RGC should pass long overdue legislation to implement judicial reform such as the Law on the Status of Judges and Prosecutors, the Law on the Organization of the Courts and an act amending the Law on the Supreme Council of Magistracy.

The CCHR notes that concerns in relation to the fragility of Cambodia's democracy and its human rights record were raised in the recent 'DRAFT REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW – Cambodia'¹, and urges the RGC to heed recommendations in this review, including Vietnam's recommendation to "Further strengthen the law reforms and policy aimed at protecting the people's rights"². Based on the known facts of Mr. Rainsy's and the villagers' case, the CCHR holds that the villagers should be released, the case reviewed and the charges against all thrown out.

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¹ HUMAN RIGHTS COUNCIL Working Group on the Universal Periodic Review Sixth session Geneva, 30 November - 11 December 2009, DRAFT REPORT OF THE WORKING GROUP ON THE UNIVERSAL PERIODIC REVIEW - Cambodia, (A/HRC/WG.6/6/L.3)

² Ibid., p 22.

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