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Public statement by the Office of the High Commissioner for Human Rights
Phnom Penh, 24 December 2008

**Appeal of Sok Sam Oeun and Born Samnang before the Supreme Court of Cambodia
against their conviction for the murder of trade unionist Chea Vichea**

The assassination of trade union leader, Chea Vichea, in broad daylight in central Phnom Penh on 22 January 2004 deprived Cambodia of a brave and influential trade unionist who had championed labour rights and freedom of association. It also sparked a controversy which continues to this day to undermine the rule of law in Cambodia, strengthen the culture of impunity and further diminish public confidence in an already weakened justice system.

There are reasons to doubt of the validity of the convictions of Born Samnang and Sok Sam Oeun for the killing. The initial investigating judge dismissed the case for lack of evidence. He was removed from the case and the municipal court. The case was retried and the men convicted on the basis of a retracted confession, disregarding defence witnesses and evidence suggesting that the men could not have been responsible. Rather than looking into these deficiencies, the Court of Appeal upheld the convictions and confirmed the sentences of 20 years imprisonment.

On 31 December 2008, the Supreme Court will hear a further appeal by the accused against their conviction.

The High Commissioner for Human Rights, through her country office in Cambodia, has followed this case with concern. In June 2008, she submitted to the Supreme Court, as *amicus curiae* or “friend of the court”, a legal analysis document drawing attention to several fundamental breaches of international human rights law by the lower instance courts. In July 2007, the Constitutional Council ruled that the international human rights treaties, since they are guaranteed by article 31 of the Constitution, form part of Cambodian law. The Supreme Court, like all Cambodian Courts, is therefore bound to ensure that the fair trial provisions in the treaties are followed and breaches committed by lower courts are remedied.

The Supreme Court cannot itself overturn the convictions. It can, however, refer the case back to the Court of Appeal for retrial with a clear instruction to abide by Cambodian penal law and international fair trial standards. To do so would demonstrate the commitment of the judiciary’s highest jurisdiction to the rule of a just law, set a very positive example for the entire judiciary, and signal the beginning of an effort to combat and curb impunity.

Two other trade union leaders – Ros Sovannareth and Hy Vuthy – have been killed since Chea Vichea. These killings have had an adverse impact on freedom of association in Cambodia. The OHCHR supports the recent call by the International Labour Organisation’s Committee on Freedom of Association for independent inquiries into the killings of trade unionists and associated miscarriages of justice.

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