



**Special Representative of the Secretary-General
for Human Rights in Cambodia**

តំណាងពិសេសរបស់លោកអគ្គលេខាធិការទទួលបន្ទុកសិទ្ធិមនុស្សប្រចាំកម្ពុជា



**The Special Representative expresses deep concern over the defamation verdicts against
opposition leader Sam Rainsy
27 December 2005**

The Special Representative of the Secretary-General for human rights in Cambodia, Yash Ghai, is concerned about the sentence in absentia against opposition leader Sam Rainsy, pronounced by the Municipal Court of Phnom Penh on 22 December 2005.

The Municipal Court of Phnom Penh sentenced Sam Rainsy to 18 months imprisonment and ordered him to pay some \$14,000 in fines and compensation for having defamed FUNCINPEC President Prince Norodom Ranariddh and Prime Minister Hun Sen. The defamation charges, under article 63 of the 1992 Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period (commonly known as the UNTAC Law), relate to a radio interview Sam Rainsy gave to the Beehive radio station alleging that Prince Ranariddh had received \$50 million and an aircraft from Prime Minister Hun Sen to form a coalition government with the Cambodian People's Party in 2004. The court also found Sam Rainsy guilty of defamation for having filed a law suit against the Prime Minister accusing him of having been behind a grenade attack against a demonstration on 30 March 1997 in which more than 14 people were killed and 142 injured. Sam Rainsy has been in exile since 3 February 2005, when his parliamentary immunity was waived by the National Assembly in a closed session.

The verdict against Sam Rainsy is one of a series of defamation charges brought against public figures in the last two years. It is a cause for deep concern that in Cambodia defamation and disinformation are being prosecuted as criminal cases under the 1992 UNTAC law and not under civil law. In this respect, the Special Representative firmly believes that dissenting views and opinions should be challenged through public debate rather than criminal law suits. The Special Representative notes that the UNTAC law was enacted as a temporary measure and under very particular circumstances, which no longer reflect the situation in today's Cambodia. This law was also passed before Cambodia adopted its Constitution and acceded to the core international human rights treaties, in particular the International Covenant on Civil and Political Rights.

The Special Representative is of the view that the provisions relating to criminal disinformation and defamation under articles 62 and 63 of the UNTAC law respectively are inconsistent both with Cambodia's Constitution and its international human rights commitments. Therefore, serious consideration should be given to repealing these provisions as unfortunate remnants from Cambodia's troubled past. The new criminal code currently under preparation also offers a welcome opportunity for amending the law so as to make it compliant with Cambodia's treaty obligations and Constitution. In this context, the Special Representative also wishes to emphasize Cambodia's need for an independent, impartial and trustworthy judiciary. This is all the more important as space for political discourse and public debate is being increasingly challenged, including through the courts.

During his recent visit to Cambodia, the Special Representative heard many complaints about the arrest and detention of respected persons in politics, journalism and trade unions, and the lifting of the immunity of opposition party parliamentarians. He is also concerned about the many irregularities that have been reported in connection with these cases. This deeply worrying trend is a serious threat to freedom of expression and political pluralism in Cambodia. The verdict against Sam Rainsy needs to be seen in this light. The Special Representative also calls for the early release of radio broadcaster Mam Sonando, trade unionist Rong Chhun and parliamentarian Cheam Channy, which would be welcomed by the international community as a reassuring sign of Cambodia's continued commitment to the promotion and protection of human rights and freedoms.